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Henry Walker  
(615) 252-2363  
Fax (615) 252-6363  
Email hwalker@boultoncummings.com

August 12, 2005  
T.R.A. DOCKET ROOM

Ron Jones, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Pkwy.  
Nashville, TN 37243

Re: *Petition to Establish Generic Docket to Consider Amendments to Interconnection  
Agreements Resulting from Changes of Law*  
Docket Number: 04-00381

Dear Chairman Jones:

For the Authority's information, CompSouth files the attached recommendation submitted to the Georgia Public Service Commission by the agency's staff regarding the change-of-law docket.

The Georgia staff recommended that BellSouth's Motion for Summary Judgment (identical to the Motion filed by BellSouth in Tennessee) be denied, without prejudice, pending the final outcome of the Georgia hearing. The Staff wrote:

The Staff recommends that the Commission deny without prejudice as to the merits of the issues both BellSouth's Motion for Summary Judgment and the Cross Motion filed by the Joint CLECs. Given the complexity of the issues, it is not clear at this point that the issues are purely legal. The Staff believes that the Commission would be in a better position to resolve these issues after it has had the benefit of an evidentiary hearing. Moreover, given that the hearings will take place anyway, and that one round of testimony has already been filed, any efficiencies in addressing a portion of the issues would not be substantial. The Staff emphasizes that adoption of its recommendation should not limit or presuppose in any way the Commission's ultimate consideration of these issues in this docket.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

*Henry Walker*  
By Henry Walker

HW/djc  
Enclosure

1145141 v1  
104724-012  
8/11/2005

LAW OFFICES  
1600 DIVISION STREET • SUITE 700 • P.O. BOX 340025 • NASHVILLE, TN • 37203  
TELEPHONE 615 244 2582 FACSIMILE 615 252 6380 www.boultoncummings.com

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been forwarded via U.S. Mail, postage prepaid, to:

Guy M. Hicks  
BellSouth Telecommunications, Inc.  
333 Commerce Street, Ste. 2101  
Nashville, TN 37201-3300

James Murphy  
Boult, Cummings, Conners & Berry  
1600 Division Street, Ste. 700  
Nashville, TN 37203

Ed Phillips  
United Telephone -Southeast  
1411 Capitol Blvd.  
Wake Forest, NC 27587

H. LaDon Baltimore  
Farrar & Bates  
211 7<sup>th</sup> Avenue North, Ste. 320  
Nashville, TN 37219-1823

John Heitmann  
Kelley, Drye & Warren  
1900 19<sup>th</sup> Street NW, Ste. 500  
Washington, DC 20036

Charles B. Welch  
Farris, Mathews, et al.  
618 Church Street, Ste. 300  
Nashville, TN 37219

Dana Shafer  
XO Communications, Inc.  
105 Malloy Street, Ste. 100  
Nashville, TN 37201

on this the 12<sup>th</sup> day of August, 2005.

  
\_\_\_\_\_  
Henry M. Walker

R-1. DOCKET NO. 19341-U: **Generic Proceeding to Examine Issues Related to BellSouth's Obligations to Provide Unbundled Network Elements.** Consideration of Motion by BellSouth Telecommunications, Inc. for a Summary Judgment or Declaratory Ruling and Cross-Motion by Joint CLECs' for a Summary Judgment or Declaratory Ruling. (Shaun Rosemond, Dan Walsh)

## **Background**

The Georgia Public Service Commission ("Commission") initiated this docket on August 24, 2004 in response to separately filed petitions for declaratory ruling. On June 1, 2005, BellSouth filed a Motion for Summary Judgment, or in the Alternative Motion for Declaratory Ruling. BellSouth's position is that a majority of the outstanding issues can be grouped into two categories –those that are purely legal and those that have mixed questions of law and fact (Motion 6). For those issues that are purely legal matters, BellSouth requested that the Commission issue a summary judgment; for those issues that have mixed questions of law and fact, BellSouth requested that Commission state what the law is either by granting partial summary judgment or issuing a declaratory ruling, so that the factual disputes can be resolved in the proper context. The Staff recommended that the Commission adopt a schedule for responses to the Motion for Summary Judgment and BellSouth's reply to any such responses.

On July 1, 2005, the Commission received a Response to BellSouth's Motion and Cross-Motion for Summary Judgment from Southeastern Competitive Carriers Association, US LEC of Georgia and XO Communications Services. The Response stated that the Joint CLECs were amenable to the removal of issues 7 and 14 from the proceeding. Cbeyond Communications filed a letter in Support of the Response. Responses to BellSouth's Motion were also filed on July 1, 2005 by Sprint Communications Company, LP. and Southern Digital Networks d/b/a FDN Communications. BellSouth filed its Reply to these Motions on July 15, 2005.

## **Staff Recommendation**

The Staff recommends that the Commission deny without prejudice as to the merits of the issues both BellSouth's Motion for Summary Judgment and the Cross Motion filed by the Joint CLECs. Given the complexity of the issues, it is not clear at this point that the issues are purely legal. The Staff believes that the Commission would be in a better position to resolve these issues after it has had the benefit of an evidentiary hearing. Moreover, given that the hearings will take place anyway, and that one round of testimony has already been filed, any efficiencies in addressing a portion of the issues would not be substantial. The Staff emphasizes that adoption of its recommendation should not limit or presuppose in any way the Commission's ultimate consideration of these issues in this docket.

The Staff also recommends that the Commission remove Issues 7 and 14 from the proceeding. The Joint CLEC Response identified these issues as no longer being live controversies and no party to the proceeding has objected to that characterization.